



Bail Slip

The Petitioner / Appellant / Accused-I namely Rajan S/O Jeyaraman was directed to be released on bail as per the order of this court dated 30.04.2015 in MP 1/2015 in CrI.RC.NO.427 of 2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrI.R.C.No.427 of 2015

Rajan ... Petitioner/Appellant//Accused-1
Vs.

The State represented by
The Sub-Inspector of Police,
Railway Protection Force,
Arakkonam. ... Respondent/Respondent/Complainant

PRAYER: This Criminal Revision Case has been filed under Section 397(i) and 401 of Cr.P.C., to set aside the Judgment in CrI.A.No.77 of 2013, on the file of the learned Additional District Sessions Judge-II, Ranipet, dated 26.02.2015, in respect of confirming the conviction in the judgment passed in C.C.No.89 of 2011, on the file of the learned Judicial Magistrate, Arakkonam, dated 19.07.2013.

For Petitioner : Mr.C.Samivel
Legal Aid Counsel

For Respondent : Mr.R.Vinoth Raja
Government Advocate (CrI.Side)

O R D E R

The convicted accused is the revision petitioner herein.

2.The respondent/Railway Protection Force has filed a charge sheet in Crime No.3 of 2011, alleging that the accused was found in unlawful possession of Railway property and when PW1 was



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in charge, based upon the source information on 08.05.2011, at about 09.15 p.m., find that the accused was carrying Polithin Bag and on search, it was found that unlawful possession of 15 numbers of Fan Roll Clips without any sanction or authority and accordingly, after following the procedure, the respondent police had filed a complaint and thereafter, investigation has been completed and final report has been filed in Crime No.3 of 2011 for the offence under Section 3(a) of RP(UP) Act and the same was taken on file as C.C.No.89 of 2011, before the learned Judicial Magistrate, Arakkonam, Vellur District. After the trial, the learned Judge has convicted the accused for the offence under Section 3(a) of RP(UP) Act and sentenced him to undergo one year simple imprisonment. Aggrieved against the same, the accused has preferred an appeal in CrI.A.No.77 of 2013 before the learned Additional District Sessions Judge II, Ranipet and the learned Judge by an order dated 26.02.2015, has dismissed the appeal. Hence, the present Criminal Revision Case has been preferred by the accused before this Court.

3.Before the Trial Court during the course of trial, on behalf of the prosecution one Ajaykumar, who is the Sub-Inspector of Railway Protection Force was examined as PW1; Karupudevan, who is a Head Constable was examined as PW2; Martinroy, who is a Constable, was examined as PW3; Ravikumar, who is a Constable, was examined as PW4; Selvam, who is an Assistant Engineer, was examined as PW5 and marked Exs.P1 to P7. On behalf of the defence no witness has been examined and no documentary evidence has been filed. Material objects M01/15 numbers of Fan Roll Clips & M02/one Polithin Bag were marked.

4.Heard both the learned counsels and perused the materials placed on record.

5.Mr.C.Samivel, Legal Aid Counsel, appearing on behalf of the revision petitioner would submit that all the prosecution witnesses are official witnesses. In the absence of any independent witnesses, the alleged seizure and conviction could not be relied upon and sentence awarded by the Trial Court is excessive.

6.The learned Government Advocate (CrI.Side) appearing for the respondent would contend that the respondent police are entitled for presumption under clause Section 3(a) of RP(UP) Act and made submissions in support of the orders passed by the Trial



Court. PW1/Ajaykumar, who is the Sub-Inspector of Railway Protection Force, based upon the source information, along with his team viz., PW2, PW3 and PW4 have visited over the Arakkonam Railway West Yard and found that the accused is in possession of one Polithin Bag on suspicion they opened bag and found 15 numbers of Fan Roll Clips. The evidence of PW2 is that the accused has voluntarily given confession statement, which was marked as Ex.P2 and the railway property was seized under seizure mahazar. PW3 could specifically deposed that since PW1 does not know to write in Tamil, he only drafted the seizure mahazar and also obtained the signature of the accused.

7.From the records, it reveals the fact that PW3 was not cross examined to challenge the seizure mahazar or the signature of the accused therein, assumes significance.

8.The specific evidence of PW5/Junior Engineer, Southern Railways is to the effect that the material seized from the possession of the accused is as per RTSO specification and it is exclusively manufactured for Railways, does not avail in the open market and the same is not subjected to any auction so far.

9.Relying upon the said evidence of PW3 and PW5, the Trial Court and the Appellate Court has laid the conviction accordingly. As stated by the PW3 and PW5, the attester of the confession statement/PW2, was not cross-examined in the absence of any challenge to the oral evidence of PW3 and PW5 and hence, this Court finds that the submissions made by the learned counsel for the revision petitioner is not sustainable. Further, the evidence of PW3 and PW5 specifically goes to show that what was seized by PW1 is exclusively the property of the Railway, which does not available in public or open market and not subjected to any auction process. The conviction statement and seized mahazar eliminates the challenge.

10.In view of the Section 3(a) of RP(UP) Act, since, the property seized is now found to be that of the Railway property, in the absence of any sanction or authority to carry Railway property, the accused has not produced any sanction or authority letter to carry the said property, his possession is presumed to be unauthorized possession and hence conviction under Section 3(a) of RP(UP) Act is sustainable.



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11.It is noticed by the legal aid counsel that this is first conviction of the accused and no other previous conviction against the accused and accordingly, this Court is inclined to reduce the sentence period from one year simple imprisonment to six months simple imprisonment.

12.Accordingly, this Criminal Revision Case stands partly allowed to the limited extent as indicated in respect of sentence alone. Service of Mr.C.Samivel, legal aid counsel, is to be put on record.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Sub-Inspector of Police,
Railway Protection Force, Arakkonam.
- 2.The Additional District Sessions Judge-II, Ranipet.
- 3.The Judicial Magistrate, Arakkonam.
- 4.The Chief Judicial Magistrate
Vellore (For Information)
- 5.The Public Prosecutor,
High Court, Madras.

Copy To:

The Secretary Legal Service Authority
High Court, Madras.

Cr1.R.C.No.427 of 2015

VBM(CO)
SB(04/10/2021)